

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0048

STATE OF MONTANA,

Plaintiff and Appellee,

v.

NICOLE GUILL,

Defendant and Appellant.

FILED

OCT 30 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

Koan Mercer, counsel for Appellant, respectfully requests an extension until January 12, 2010, in which to file the opening brief in the above-entitled matter. Due to the nature and volume of counsel's caseload, counsel is requesting 60 days. Counsel submits the attached affidavit in support of this request.

Counsel for the State has no objection to this extension request.

Respectfully submitted this 30th day of October, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
301 South Park, Room 568
P.O. Box 200145
Helena, MT 59620-0145

By: *Koan Mercer*
KOAN MERCER
Assistant Appellate Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office.

2. In that capacity, I supervise Koan Mercer who has been assigned to handle the above-entitled criminal appeal.

3. Although an initial notice of appeal was first filed in this matter on January 26, 2009, before the full record arrived, the appeal was stayed and the case remanded for proceedings in district court from which an amended notice of appeal was filed on July 15, 2009.

4. The Appellant's opening brief on the amended notice of appeal was, thus, first due on October 14, 2009.

5. It is presently due on November 13, 2009.

6. Mr. Mercer will be unable to complete this brief in the previously allotted time because he has been working to complete the opening brief for *State v. Henson*, DA 09-089, an appeal from a seven-day mitigated deliberate homicide trial whose opening brief will be filed on or before November 27, 2009.

7. Mr. Mercer will continue to work diligently under my supervision to complete this matter in a timely manner; however, it appears Mr. Mercer will need at least an additional 60 days as he presently has nine other cases awaiting opening briefing and has recently had *State v. Andrews*, DA 09-0209, set for oral argument.

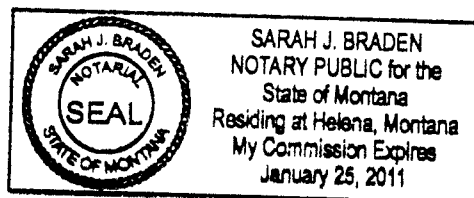
8. Opposing counsel has been contacted concerning this motion and does not object.

9. Further your affiant sayeth naught.

Joslyn Hunt
Jeslyn Hunt

SUBSCRIBED AND SWORN to before me this 28th day of October,
2009.

Sarah J. Braden
Sarah J. Braden



CERTIFICATE OF SERVICE

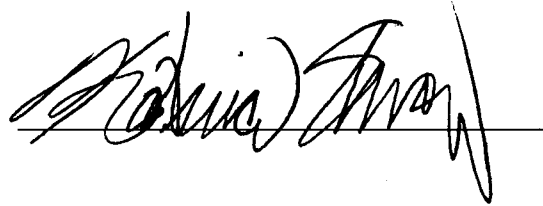
I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

COLEEN MAGERA
Sanders County Attorney
P.O. Box 519
Thompson Falls, MT 59873-0519

NICOLE GUILL 3000065
Montana Women's Prison
701 South 27th Street
Billings, MT 59101

DATED: October 30, 2009

A handwritten signature in black ink, appearing to read "Colleen Magera", is written over a horizontal line.